

§ 409.1

SOURCE: 31 FR 11177, Aug. 24, 1966, unless otherwise noted.

§ 409.1 Definitions.

As used in this part, the term:

(a) *Fiscal year* means the calendar year, or other period of 12 consecutive calendar months. Once reported on one basis, a change in the reporting year shall be effected only upon prior approval by the Office of Labor-Management Standards.

(b) *Corresponding principal officers* shall include any person or persons performing or authorized to perform principal executive functions corresponding to those of president and treasurer of any surety underwriting a bond for which reports are required under section 211 of the Labor-Management Reporting and Disclosure Act of 1959.

§ 409.2 Annual report.

Each surety company having in force any bond required by section 502 of the Labor-Management Reporting and Disclosure Act of 1959 or section 412 of the Employee Retirement Income Security Act during the fiscal year, shall file with the Office of Labor-Management Standards a report, on U.S. Department of Labor Form S-1 entitled "Surety Company Annual Report"¹ signed by the president and treasurer or corresponding principal officers, in the detail required by the instructions accompanying such form and constituting a part thereof.

[42 FR 59070, Nov. 15, 1977, as amended at 50 FR 31309, Aug. 1, 1985; 50 FR 31310, Aug. 1, 1985]

§ 409.3 Time for filing annual report.

Each surety company required to file an annual report by section 211 of the Labor-Management Reporting and Disclosure Act of 1959 and § 409.2 shall file such report within 150 days after the end of the fiscal year. The period of 150 days within which reports must be filed is stipulated in lieu of the statutory period of 90 days (sec. 207(b), 73 Stat. 529, 29 U.S.C. 437(b) as amended by 79 Stat. 888) pursuant to a finding under section 211 (79 Stat. 888) of the Act that information required to be reported

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cannot be practicably ascertained within 90 days of the end of the fiscal year.

[31 FR 11177, Aug. 24, 1966, as amended at 50 FR 31310, Aug. 1, 1985]

§ 409.4 Personal responsibility for filing of reports.

Each individual required to file a report under section 211 of the Labor-Management Reporting and Disclosure Act of 1959, shall be personally responsible for the filing of such reports and for the accuracy of the information contained therein.

§ 409.5 Maintenance and retention of records.

Each surety required to file any report under this part shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the reports filed with the Office of Labor-Management Standards may be verified, explained or clarified and checked for accuracy and completeness, and shall keep such records available for examination for a period of not less than 5 years after the filing of the reports based on the information which they contain.

§ 409.6 Publication of reports required by this part.

Part 70 of this title shall govern inspection and examination of any report or other document filed as required by this part, and the furnishing by the Office of Labor-Management Standards of copies thereof to any person requesting them.

[35 FR 2990, Feb. 13, 1970]

§ 409.7 OMB control number.

The collecting of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 1215-0188.

[59 FR 15116, Mar. 31, 1994, as amended at 63 FR 33779, June 19, 1998]

¹ Filed as part of the original document.

PART 417—PROCEDURE FOR REMOVAL OF LOCAL LABOR ORGANIZATION OFFICERS

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AUTHORITY: Secs. 401, 402, 73 Stat. 533, 534 (29 U.S.C. 481, 482); Secretary's Order No. 5-96, 62 FR 107, January 2, 1997.

SOURCE: 29 FR 8264, July 1, 1964, unless otherwise noted.

GENERAL

§417.1 Purpose and scope.

Section 401(h) of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 481) provides that if, upon application of any member of a local labor organization, the Secretary of Labor finds, after hearing in accord-

ance with the Administrative Procedure Act, that the constitution and bylaws of such labor organization do not provide an adequate procedure for the removal of an elected officer guilty of serious misconduct, such officer may be removed for cause shown and after notice and hearing, by the members in good standing voting in a secret ballot. Section 401(i) (29 U.S.C. 481) requires the Secretary to promulgate rules and regulations prescribing minimum standards and procedures for determining the adequacy of the removal procedures referred to in section 401(h). Section 402(a) (29 U.S.C. 482) provides that a member of a labor organization who has exhausted the available internal remedies of such organization and of any parent body, or who has invoked such remedies without obtaining a final decision within three months, may file a complaint with the Secretary within one month thereafter alleging violation of section 401 (including violation of the constitution and bylaws of the labor organization pertaining to the removal of officers). Section 402(b) (29 U.S.C. 482) provides that upon suit initiated by the Secretary, a Federal court may direct the conduct of a hearing and vote upon the removal of officers under the supervision of the Secretary, and in accordance with such rules and regulations as the Secretary may prescribe. It is the purpose of this part to implement those sections by prescribing regulations relating to the procedures and standards for determining the adequacy of removal procedures and the procedures for holding elections for the removal of officers.

§417.2 Definitions.

(a) *Chief, DOE* means the Chief of the Division of Enforcement within the Office of Labor-Management Standards, Employment Standards Administration.

(b) *Adequate procedure* shall mean any procedure which affords reasonable and equitable opportunity for (1) trial of an officer(s) charged with serious misconduct, and (2) removal of such an officer(s) if found guilty, and which contains the elements set forth in each of the subparagraphs of this paragraph: